

13

Hue - Israel

1 that he had done wrong?

2 A. Yes.

3 Q. You also heard him testify

4 that from the time he commenced working at NCO, he as

5 a collector had been trained that he was not supposed

6 to submit NSF checks or any different check without

7 the debtor's permission; did you hear him say that?

8 A. Not exactly, but I don't

9 recall exactly what he said, but something to that

10 effect.

11 Q. Well, I want to try and be

12 as precise that we can remember.

13 A. Mm-hmm.

14 Q. I remember him saying that

15 he was trained, I am not permitted to submit NSF

16 checks or any check without confirming from the debtor

17 that I have permission?

18 MR. HOMER: She has already

19 said she doesn't recall that.

20 BY MR. ISRAEL:

21 Q. I'm trying to understand

22 what you do recall then.

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1 A. I recalled him saying

2 something to the effect of I don't really recall what

3 he said about the NSF checks to be honest with you.

4 I'm not sure.

5 Q. Do you recall him saying

6 anything to the effect that he wasn't supposed to

7 submit them unless he confirmed with the debtor that

8 the money was there, anything to that effect?

9 A. Not that the money was

10 there, he didn't say that. He said something to the

11 effect that he was not supposed to redeposit checks

12 unless, I don't remember, Dave, exactly what he said.

13 I'm sorry.

14 Q. Well, what was the rule when

15 he was hired?

16 A. The rule was on a redeposit

17 check, back in that era, all checks were automatically

18 redeposited by NCO, period.

19 Q. And the collector had

20 nothing to do about it?

21 A. No. It was corporate

22 mandate.

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1 Q. Did that rule ever change?

2 A. Yes.

3 Q. And when did that rule

4 change?

5 A. The exact date, I do not

6 know.

7 Q. Month?

8 A. I would be really guessing.

9 I prefer not to. I'm not sure if you have some

10 documents there that show that.

11 Q. I'm going to show you a

12 bunch of documents. I mean, I have one like from

13 Bette Capaldo in March of 03, an employee has started

14 today that is going to be responsible for the

15 redeposit process.

16 A. The memo might have come

17 from Phil Weaver.

18 Q. We will get to that. At

19 some point the rule changed. What did the rule change

20 to?

21 A. It was office discretion on

22 how to handle the redeposits.

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1 Q. Did the rule ever change

2 again after "office discretion on how to handle the

3 redeposits"?

4 A. No.

5 Q. What was the discretion that

6 was to be used by the office on the handling of the

7 redeposits?

8 A. Are you asking me for my

9 procedure, or are you asking for all of NCO?

10 Q. I'm first asking what you

11 understand what NCO's rule is; and if your procedure

12 varies from that, I want to know what your rule is.

13 A. Rephrase the question for

14 me.

15 Q. Sure. You have testified

16 that, at least when Matt Lane started, NCO had an

17 automatic redeposits of all checks --

18 A. Yes.

19 Q. -- that were NSF.

20 A. Mm-hmm.

21 Q. And that had nothing to do

22 with the collector?

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1 A. Correct.

2 Q. And at some point, and we

3 will try and pin down when, before Matt Lane left, the

4 rule changed to, there was office discretion on how to

5 handle the redeposits?

6 A. That would be correct.

7 Q. What was the discretion that

8 was to be used by the office on how to handle the

9 redeposited NSF checks?

10 A. Kathy left it up to each

11 office to set up a procedure on how to handle the

12 redeposits.

13 Q. Were there new broad

14 guidelines?

15 A. There were some

16 administrative guidelines such as them being faxed up

17 to Horsham. There was a cut off period when they had

18 to be; but as for procedurally in the office, it was

19 more or less not the individual office to establish.

20 Q. Was there any directive at

21 the corporate level that you had to attempt and

22 validate that funds were available by confirming with

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1 the bank or the debtor?

2 A. You were to try and contact

3 the bank and/or the debtor.

4 Q. To confirm that the funds

5 were available?

6 A. To see if the funds were

7 available and/or qualify the source of funds.

8 Q. What does that mean, to

9 qualify the source of funds?

10 A. When you are soliciting a

11 check from a debtor, that check is normally given

12 because he believes something is going to happen in

13 his business that will allow him to get cash flow.

14 That is called qualifying the source of funds.

15 Q. So if I understand your

16 testimony, you would call the debtor if the debtor

17 said, look, I'm going to send you a check for moneys

18 not here now, but one of my customers is going to pay

19 me, and you believed that that would be the

20 qualification?

21 A. That would be the

22 qualification. That would be considered source of

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1 funds.

2 Q. That would be the type of

3 discretion?

4 A. Right. The collector would

5 solicit that check based upon that information. His

6 job was to notate it in the system that that was the

7 source of funds.

8 Q. If, in fact, it was so

9 qualified, then the NSF check would be submitted?

10 A. That is during the initial

11 call. If we contacted the debtor towards the end of

12 the month, and we could reach him, and he said yes, it

13 is going to happen, bla, bla, bla, the money will be

14 there when the check hits the bank, then yes, we were

15 allowed to deposit that check.

16 Q. As you were describing this

17 process, that was in place all the way to the time

18 that you left?

19 A. That was in place from the

20 day one that I worked for Miliken Michaels/NCO.

21 Q. That's what I'm asking. If

22 the debtor could not be reached --

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1 A. Mm-hmm.

2 Q. -- would it be appropriate

3 to deposit the check?

4 A. Depending. Kathy would call

5 it collector gut.

6 Q. What is collector gut?

7 A. For an example, if the

8 collector and the debtor had an ongoing relationship

9 where there was communication back and forth, and the

10 bank, and the collector and you sat down, and you

11 spoke, and he was like, yeah, it is going to happen

12 Val, he said it, he's out of town right now, but it's

13 going to happen, we call that in our world, collector

14 gut. From that you would be allowed to deposit the

15 check.

16 Q. I'm going to make a list.

17 First, if there's confirmation that the funds are

18 available, then for certain you could submit the

19 check, correct?

20 A. Mm-hmm.

21 Q. Second is if you reach the

22 debtor and the debtor qualified the source of funds or

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1 confirmed that the money would be available, then the
 2 check could be submitted, correct?

3 A. Yes.

4 Q. And the third so far is if
 5 the collector had a gut feeling based upon some
 6 objective reasoning, like history with the debtor,
 7 even if the collector hadn't specifically reached the
 8 debtor at that moment, you would still allow the check
 9 to be submitted?

10 A. Right. The collector would
 11 say yes, I feel good about it, and we can go ahead and
 12 submit it.

13 Q. Any other circumstances
 14 other than those three relating to the discretion that
 15 you used at the branch level for the submission of
 16 these NSF checks?

17 A. Sometimes bank verification,
 18 if you were able to reach a person or bank. Many
 19 banks now will not let you verify in those instances.

20 Q. I put that in the first
 21 category of confirmation that the funds are available.

22 A. Okay, okay.

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1 Q. That would be the best; the
 2 bank confirmed that the funds are available; that
 3 would be the best evidence to submit the check, right?

4 A. Right.

5 Q. Confirmation, debtor
 6 confirming source of funds, how the collector feels
 7 about it, or gut instinct; anything besides those
 8 three?

9 A. Not that I recall at this
 10 moment.

11 Q. What happens if those three
 12 did not exist? Was it appropriate for the collector
 13 to submit the check?

14 A. To redeposit the check?

15 Q. Yes.

16 A. He would redeposit it
 17 based -- no and yes.

18 Q. All right. Well, tell me
 19 why no and why yes. What part is no, if he didn't
 20 meet the three rules and he wasn't supposed to submit
 21 it?

22 A. That's all I can remember at

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1 this time. There might be some other things as we go
 2 through this that might jog my memory as to what we
 3 will allow. I want to clarify that with you.

4 Q. At this point, you only
 5 remember the three rules of discussion?

6 A. At that point.

7 Q. If you think of any others,
 8 let me know. What happens if the collector could not
 9 reach the debtor, was he supposed to submit the check?

10 A. If he could not reach the
 11 debtor and he had had history with the debtor and he
 12 felt confident.

13 Q. I'm past that. I'm going
 14 the other way. What happens if the three rules as you
 15 currently remember them -- confirmation that the funds
 16 were available, confirmation from the debtor that
 17 there's a source of funds, or if the collector has a
 18 history, the gut instinct -- if you didn't have those
 19 three as you sit here now, he wasn't supposed to
 20 submit it?

21 A. Right. He would put a hold
 22 check request form.

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1 Q. What is a hold check form?

2 A. If, for example, if the
 3 check was dated for the first or the 30th of December,
 4 he would submit that the check be held perhaps until
 5 the first until he tried to reach various things to
 6 get it okayed.

7 Q. Were there times that
 8 collectors improperly submitted checks?

9 A. I am not aware of any times
 10 in my office that collectors inappropriately submitted
 11 checks other than authorizing check dollar amounts.

12 Q. Similar to what Mr. Lane
 13 did?

14 A. Yes, that is correct.

15 Q. Do you remember Matt Lane
 16 testified that he thought half of the office was
 17 improperly submitting NSF checks?

18 A. Yes.

19 Q. You disagree with that?

20 A. I have no idea what he is
 21 referring to.

22 Q. Do you remember that he

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1 specifically said that you and your two managers,
 2 commentary as to how he was trained, gave him
 3 instructions to submit NSF checks?

4 A. I recall him saying
 5 something to that effect, but I do not remember his
 6 exact words.

7 Q. Do you remember the concepts
 8 that he was --

9 A. I remember something to that
 10 effect.

11 Q. Do you remember, though, he
 12 was accusing you of how he understood the policy to
 13 be?

14 A. Yes.

15 Q. Do you remember that
 16 Mr. Homer asked him whether he, Matt Lane, had heard
 17 that Kathy Obenshain had given you such an
 18 instruction?

19 A. I believe so.

20 Q. Do you remember he said, I
 21 never heard it, but other collectors told me that
 22 Miss Obenshain had so instructed Miss Hue?

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1 MR. HOMER: Objection.
 2 That's not a correct characterization of
 3 any of his testimony.

4 BY MR. ISRAEL:
 5 Q. Let us do it a different
 6 way. I'm not trying to recharacterize. Was there
 7 ever a time that Miss Obenshain instructed you that
 8 you had to improperly deposit NSF checks?

9 A. What would be considered
 10 improper?

11 Q. Well, you have given the
 12 three rules.

13 A. That I can think of at this
 14 point.

15 Q. Right.

16 A. Mm-hmm.

17 Q. Was there ever a time, for
 18 example, that Miss Obenshain told you, take every NSF
 19 check in the office, and regardless that you can
 20 validate funds from the bank or the debtor, regardless
 21 if the debtor will confirm the future source of the
 22 funds or regardless of instructions from the

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1 collector, run them all?

2 A. Yes. Managers have said
 3 that numerous times as well as vice-presidents of
 4 collectors.

5 Q. I'm confused. I thought you
 6 had testified that collectors never improperly ran
 7 checks?

8 A. You said vice-presidents,
 9 Kathy Obenshain. It is not improper if she does it.
 10 She's vice-president of collectors.

11 Q. Those three rules that you
 12 gave me, were those your rules as to how you
 13 implemented the discretion in your branch?

14 A. Those were criteria I set up
 15 in my branch.

16 Q. Was Kathy Obenshain aware of
 17 that criteria?

18 A. Mm-hmm, yes.

19 Q. And she approved it?

20 A. She did not disapprove it.

21 Q. She never told you, you are
 22 violating NCO rules with the discretion of these three

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1 points?

2 A. Right.

3 Q. And was there ever a time
 4 that Kathy Obenshain had you violate those three rules
 5 by running all the checks in the office?

6 A. Those were my rules. I set
 7 up in my office. She, as vice-president, took full
 8 authority over what I had set up in my office. I
 9 would do as she would instruct.

10 Q. My question is: Was there
 11 ever a time that she, Kathy Obenshain, instructed you
 12 to violate those three rules as you have described
 13 them?

14 A. I do not consider that to be
 15 so much of a violation. I followed her directive. It
 16 was my office procedure. If she said to do something
 17 different, I don't consider that to be really a
 18 violation.

19 Q. Let me change the words.
 20 I'm interpreting. I'm not trying to get you to say
 21 something that isn't your testimony. Did she ever
 22 issue a directive that was contrary to the policy and

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Hue - Israel

1 Harkinson; that was an admin person internal that your
2 office was to deal with?

3 A. Yes.

4 Q. The third is. "Requests for
5 redeposits can only be made for NCF items processed
6 within the past 30 days, time frame provided by
7 executives." What does that mean?

8 A. In some offices they call it
9 a debt check, anything past three days that you are
10 not supposed to submit for redeposit.

11 Q. Now, once you got these
12 rules, were you following your own three rules as well
13 as these admin rules?

14 A. Many of these were
15 administrative processes that my admin followed and
16 that had to be followed to get the checks put back on.

17 Q. What I'm asking is: If, for
18 example, a collector had a check that was greater than
19 30 days old, but had a good gut instinct about it --

20 A. No.

21 Q. -- meaning they couldn't be
22 deposited once this March 4, 2000 series of rules came

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1 in, correct?

2 A. Exactly. Even if you tried
3 it, you couldn't. Yes.

4 Q. Requests can only be made on
5 items that have been returned only once. Does that
6 mean that if the check had been returned once for NSF,
7 you can't turn it in multiple times?

8 A. Correct.

9 Q. And the last point,
10 "Accounting clerk will have to do final verification,"
11 what does that statement mean?

12 A. The accounting clerk, the
13 administrative assistant has to do final verification.

14 Q. Of what, though?

15 A. The accounting clerk has to
16 do final verifications on the checks.

17 Q. Does that mean that the
18 accounting clerk was the one that had to attempt to
19 contact the bank and the debtor?

20 A. And my office. That was
21 part of her job description.

22 Q. So, regardless if the

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1 collector had a good feeling based upon history with a
2 debtor, after March of 03, there had to be contact by
3 the accounting clerk with the debtor?

4 A. It was the beginning of the
5 process to get the checks to be put back on, to
6 redeposit.

7 Q. Meaning the contacting of
8 the debtor?

9 A. Right. It was the beginning
10 of the administrative process to have a redeposit.

11 Only the beginning.

12 Q. And so, as of March of 03,
13 the accounting clerk had to verify that, in fact, the
14 funds were available?

15 A. The accounting clerk and my
16 office verified if the funds were available by calling
17 the bank, would verify there was a stop payment placed
18 on the check. And she -- or in my office, she --
19 would submit a report to me, Mike Scher, the
20 collectors on those checks.

21 Q. Now, if I understood your
22 rules previously, the number two rule was that if the

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1 collector reached the debtor, and the debtor confirmed
2 the source of funds, that was a basis to submit the
3 check?

4 A. As I mentioned, this email
5 is the beginning of the process. There was a process.

6 Q. That was not my question.
7 Let me reask it. Before we looked at this email in
8 the beginning of the admin process --

9 A. Mm-hmm.

10 Q. -- you described how you in
11 your office implemented the discretion as to when
12 checks should be redeposited, correct?

13 A. Correct.

14 Q. Your second rule was if the
15 debtor confirmed the source of funds to the collector,
16 then it would be appropriate to submit the NSF check,
17 correct? That was the second rule, right?

18 A. I'm listening.

19 Q. You have to say yes or no.

20 A. Depending upon.

21 Q. I'm not there yet. I'm
22 interpreting.

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1 A. Yes, you are.

2 Q. I want to make sure I

3 understand the history. Then we are going to go to

4 this process. The rule was that the debtor confirmed

5 the source of funds to the collector; and before

6 March 4 of 03, the collector was permitted to submit

7 the NSF check, correct?

8 A. Before March of 03?

9 Q. Before March 4, 2003,

10 correct.

11 A. Let me get the date.

12 MR. HOMER: You can look on

13 the last page.

14 BY MR. ISRAEL:

15 Q. It is on the email from

16 Bette Capaldo.

17 A. Before March the checks were

18 automatically redeposited.

19 Q. Before March of 03, the

20 checks were automatically redeposited?

21 A. As of February 24, 2003,

22 prior to February 24, 2003, all checks were

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1 automatically redeposited by NCO. That is a second

2 part of your email.

3 Q. When was the discretion used

4 by the collector then?

5 A. Once Phil Weaver stopped

6 that process, then it was based upon office

7 discretion.

8 Q. Okay. Once Phil Weaver

9 stopped what process?

10 A. Automatically redepositing

11 of all checks.

12 Q. Okay.

13 A. Mm-hmm.

14 Q. When did Phil Weaver

15 automatically stop redepositing all checks?

16 MR. HOMER: She has already

17 told you it is in the memo.

18 THE WITNESS: February 24 of

19 2003, he writes, "Effective immediately

20 the automatic redeposits of return items

21 from the bank will cease."

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1 BY MR. ISRAEL:

2 Q. Now, at that point is when

3 you started your process of the three rules as you

4 have described it?

5 A. At that point, we were

6 advised by Miss Obenshain to come up with a procedure

7 to replace what Phil had abolished.

8 Q. Right after February 24,

9 Kathy Obenshain asked you to come up with a procedure,

10 and you have the three rules as you have described

11 them?

12 A. There are rules. There

13 might be more than three, as I mentioned.

14 Q. You told me that.

15 A. Okay.

16 Q. I'm not trying to trick you.

17 You have made that abundantly clear.

18 A. Okay. I just wanted to make

19 sure.

20 Q. The three main rules, I am

21 not going to keep going through them, that was after

22 February 24, 03, correct?

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1 A. Yes. We had to establish

2 something in our office.

3 Q. Okay. So now comes an email

4 dated March 4 of 03, about a week later. You have in

5 front of you from Bette to Phil, see that?

6 A. Yes.

7 Q. Now, the last point is that

8 the accounting clerk will have to do final

9 verification. That verification was to confirm that

10 the debtor had the funds necessary before the NSF

11 check was submitted, correct?

12 A. She was at the beginning of

13 a process that was a week long process.

14 Q. To confirm that the debtor

15 had the funds before the NSF check was submitted,

16 correct?

17 A. To confirm with the bank

18 that funds were available.

19 Q. And if she couldn't confirm

20 with the bank that the funds were available, would the

21 check be submitted?

22 A. She would prepare a report

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Duc - Israel

1 and give it to myself, Mike Scher, and the collectors.
 2 Q. And what would you then do
 3 with that report?
 4 A. That report would be given
 5 to the collectors. And their job was to qualify
 6 source of funds, contact the debtors.
 7 Q. Got it. Got it.
 8 A. Etcetera.
 9 Q. Right. So after she
 10 attempted to confirm that the funds were available in
 11 the bank, if she wasn't able to do so, then that
 12 report would be created, and you would go to your
 13 collectors and have them try and confirm the source of
 14 funds?
 15 A. They would be advised to get
 16 the check to make it good, yes.
 17 Q. And were they also permitted
 18 at that point to use their gut instinct?
 19 A. If necessary, yes.
 20 Q. Okay. So after the March 4,
 21 03 memo, was there ever a time that Kathy Obenshain
 22 issued a directive that all NSF checks in your office

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1 were to be run?
 2 A. It was, I would not call it
 3 a directive. I would say she would make a statement,
 4 you know, let them all get deposited and see what
 5 sticks. You have heard that statement. You have been
 6 in this industry long enough, I'm sure. That was a
 7 vice-president's statement.
 8 Q. Right. I don't want to
 9 mince words. Whether that's a directive or that's a
 10 statement, you took from that statement that the
 11 branch was now permitted to take all those checks and
 12 to quote, redeposit them, to see if they would, quote,
 13 stick?
 14 A. As long as they met certain
 15 criteria, according to some of this criteria you see
 16 before you.
 17 Q. Well, if it didn't meet the
 18 criteria, it wouldn't be on the report, correct?
 19 A. Oh, it should be on the
 20 report.
 21 Q. I said it wrong. If it
 22 didn't meet the criteria, then you would not, strike

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1 that.
 2 Was there ever a time that Kathy
 3 Obenshain made a statement which you understood to be
 4 in a directive that regardless, if it met the criteria
 5 in this March 03 email, the checks were to be run to
 6 see what sticks?
 7 A. No.
 8 Q. What would happen if the
 9 accounting clerk reported that, can't reach the bank
 10 and can't reach the debtor?
 11 A. Her job was not to contact
 12 the debtor.
 13 Q. Only the bank?
 14 A. Only the bank.
 15 Q. And when a collector would
 16 come to you and say, I can't reach the debtor, was
 17 there ever a time that Kathy said, well, regardless,
 18 let the check run and see if it sticks?
 19 A. Yes.
 20 Q. And is that your
 21 understanding as to what NCO's proper procedure was
 22 after March of 03?

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Duc - Israel

1 A. She would state that, did he
 2 try to contact the debtor, what's the history on the
 3 account, many of those things that you just went over.
 4 And if we went through the account, as we did many
 5 times together, she would say, let's see if it sticks,
 6 go ahead and deposit it. There is a good history on
 7 it, feels good.
 8 Q. I understand that she gave
 9 the instruction, but what I'm asking is: Did you
 10 understand that would be in compliance with NCO's
 11 policy as of March 4, 2003?
 12 A. Yes, because we did not
 13 deposit checks that were over 30 days in the system
 14 that were dead checks. There were not checks that had
 15 been resubmitted that were done twice. So yes, she
 16 would say, you know, after reviewing them together,
 17 she would say, go ahead and run it.
 18 Q. I'm not being clear. We are
 19 not communicating. You have made that abundantly
 20 clear twice. What I am saying is: Did you understand
 21 that instruction of "go ahead and run it" to be in
 22 compliance with NCO's policy?

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Hue - Israel

1 A. I believe I've answered
2 that.

3 Q. Is the answer yes?
4 A. I've explained the answer.
5 Q. Let me make it yes or no.

6 Was it in compliance with NCO's policy when
7 Miss Obenshain issued you the directive after
8 questioning you about the check to have the check run?
9 A. If it met this criteria,
10 yes, it was in compliance.
11 Q. Okay. Is it your
12 understanding that that process was used by everyone?
13 A. Can you rephrase that?
14 Q. Absolutely. Is it your
15 understanding that that process, as you have described
16 it, was used, not only by you in your office, but by
17 other GCM's, general collection managers, in other
18 commercial division offices?
19 A. I believe other collection
20 managers, GCM's, had a process in place.
21 Q. Okay. Was it the same
22 process that you had?

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1 A. I don't know.
2 (Deposition Exhibit Number One
3 was marked for
4 identification.)

5 BY MR. ISRAEL:
6 Q. Okay. Let me show you what
7 I will mark as Hue Number Nine. And this is a
8 document that you produced to us. We identified it as
9 Plaintiff's Bates Number 20. Do you know what that
10 document is?
11 A. Mm-hmm.
12 Q. What is that?
13 A. It is a policy that was
14 initiated after my termination.
15 Q. After your termination.
16 Okay. Can I see that for a second?
17 Do you know who signed it? It is
18 blocked out.
19 A. Mm-hmm.
20 Q. Who signed it? Is there a
21 problem? Who signed it?
22 A. I didn't know that was a

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Hue - Israel

1 question.
2 Q. Who signed it?
3 A. It might have been, I want
4 to say it might have been Barry Lee that had submitted
5 this. Yes. It says Mr. Lee at the top. I would say
6 Barry Lee.
7 Q. Where did you get it?
8 A. He faxed it to me.
9 Q. Mr. Lee faxed it to you?
10 A. Yes. He was an employee of
11 NCO.
12 Q. I want to read to you number
13 six, and I'll be happy to give it back. "All checks
14 over one thousand dollars with an NSF on file needs to
15 be verified by the bank or proof of funds need to be
16 validated; i.e., deposits slips/bank statement. Get a
17 second voice or conference in, a lead/supervisor or
18 manager."
19 Was that a rule that was in place when
20 you were in the Dover branch?
21 A. No.
22 Q. Number eight says, "All

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Hue - Israel

1 checks received via mail with an NSF will be verified
2 before posting. If the payment cannot post a Y-mail,
3 will go to chain so a call can be made to the debtor."
4 Was that a rule in place in the Dover office when you
5 were there?
6 A. Please reread that.
7 Q. In fact, let me show it to
8 you. It is number eight.
9 A. No.
10 Q. Meaning that it wasn't a
11 ruling in your office?
12 A. No, not that I was aware of.
13 Q. How often between March of
14 03 and when you left in January of 04 would
15 Miss Obenshain make any request that all NSF checks
16 should be run?
17 A. May I have the dates again?
18 Q. Sure. How often between
19 March of 03, specifically after Miss Capaldo's email
20 that we have looked at in Hue number Eight, and when
21 you left in January of 04, did Miss Obenshain issue a
22 directive that all checks should be run?

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Hue - Israel

1 A. I don't have the exact times
2 and/or dates for that.

3 Q. Was it a common occurrence
4 that you would expect at the end of each month
5 Obenshain would make a statement or give a directive
6 that all NSF's were to be run?

7 A. Not every month.

8 Q. Every other month; can you
9 estimate for me?

10 A. I wouldn't say every other
11 month. I would not be able to estimate properly for
12 you.

13 Q. Was there ever a time where
14 she had you run all of the checks without doing any
15 type of due diligence under the rules as you have
16 described, those three rules?

17 A. Not that I can recall. And
18 if I may ask you to repeat that question.

19 Q. Was there ever a time that
20 Miss Obenshain asked you to run all of the NSF checks
21 in the office at the end of the month without you
22 doing any due diligence or scrub as to the likelihood

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Hue - Israel

1 of those checks being collected?

2 A. I'm not sure what you mean
3 by scrub.

4 Q. You have your three rules?

5 A. Right.

6 Q. Was there ever a time that
7 she asked you to run all of the checks without
8 supplying any of those three rules?

9 A. I would say, she would say,
10 Valerie, deposit, go ahead and redeposit checks and
11 see what sticks. And that would be normally the way
12 she would speak to me.

13 (Whereupon the reporter read
14 back the previous answer.)

15 BY MR. ISRAEL:

16 Q. When she would give you that
17 directive or make that statement --

18 A. Mm-hmm.

19 Q. -- was she talking about one
20 check or all the checks?

21 A. One or maybe two or three.
22 What we would do is go over the checks on the phone

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Hue - Israel

1 together.

2 Q. That is what I'm trying to
3 understand. Was there ever a time when you wouldn't
4 make the effort with her to go over the one or two or
5 three checks at issue, and then she issues the
6 statement, letting it stick, and that she just said
7 run all of the checks?

8 A. We would sit on the phone
9 and we would go over the checks and I would tell her
10 what was and was not done. She would say, Val, go
11 ahead and see what sticks. She would say, go ahead
12 and deposit it.

13 Q. Who is Dave McQuisten?

14 A. He is or was a collector at
15 the local branch in Dover.

16 Q. You were requiring to
17 collectors to come see you to confirm verification
18 before running NSF's?

19 A. Before redepositing?

20 Q. That's what I'm asking.
21 Before redepositing NSF's.

22 A. They would have to meet with

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Hue - Israel

1 their various managers to go over why, what was going
2 to be going to allow that check to be deposited.

3 (Deposition Exhibit Number Hue-
4 10 was marked for
5 identification.)

6 BY MR. ISRAEL:

7 Q. Let me show you what I've
8 marked as Hue Ten. It is a memo from you to
9 Mr. McQuisten.

10 A. Mm-hmm.

11 Q. You were instructing him to
12 see you before checks being redeposited?

13 A. I was responding to Kathy's
14 request, yes. I issued a memo to him.

15 Q. What was the reason that
16 Kathy Obenshain made a request that you issue a memo?

17 A. She had gotten some inquiries
18 on all NSF's that happened in December, as mentioned
19 earlier, that were in the email, and for all branches.
20 And she had wanted the perpetrators so much to speak,
21 have some kind of memos put in the file and written
22 up. I issued this memo to David about his NSF's.

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Hue - Israel

1 Q. He was in your office, David
2 McQuisten?

3 A. Yes.

4 Q. I thought I heard your
5 previous testimony that, except for improper checks
6 run by Matt Lane, there were no other improper checks
7 in your office per that report; did I misunderstand
8 you?

9 A. This was not what we
10 consider improper. Improper in my mind's eye are
11 collectors that take checks and alter dollar amounts.
12 That would be what I would consider improper. I gave
13 David a supplemental memo.

14 Q. Well, if a collector ran an
15 NSF check without following your three rules --

16 A. Mm-hmm.

17 Q. -- wasn't that improper?

18 A. I was not in the office in
19 December.

20 Q. First answer that question.
21 If a collector ran an NSF check without following the
22 three rules as you have described them, wouldn't that

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Hue - Israel

1 have been improper?

2 A. Yes, or the rules that had
3 been present.

4 Q. Did this relate to
5 activities in the office?

6 A. Yes.

7 Q. What did Mr. Mc Quisten do?

8 A. I don't know. I don't
9 recall.

10 Q. When you were out in
11 December, did Eric Shaw issue improper instructions
12 about running checks?

13 A. I do not know. Whatever
14 Rick said, as I was out of the office. I gave him
15 instructions that I asked him to follow.

16 Q. What were your instructions
17 to him?

18 A. My instructions to him were
19 to speak to the collectors, to get the report from me,
20 which is always on a week in advance.

21 Q. That's the NSF report?

22 A. To see what checks are in

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Hue - Israel

1 the office, to get with the collectors to see what
2 checks would, could go in again or what checks could
3 not, verify source of funds, collector gut, normal
4 procedure.

5 Q. Who was the administrator?

6 A. Who was my office
7 administrator?

8 Q. Yes.

9 A. At time it was Lee
10 Nickerson.

11 Q. When you were suspended, who
12 told you about that?

13 A. Ted.

14 Q. Over the phone?

15 A. Yes.

16 Q. What did he tell you as to
17 why you were being suspended?

18 A. He said you are being, we
19 have spoken with collectors, and you are being
20 suspended for improper check verifications.

21 Q. What, if anything, did you
22 say?

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Hue - Israel

1 A. "What?" That was my
2 response.

3 Q. Then what happened?

4 A. Are you kidding me? And he
5 said, "No, leave." That was it.

6 Q. Okay. Did you speak with
7 anyone besides Mr. Fox relating to this investigation?

8 A. Kathy Obenshain.

9 Q. What, if anything, did you
10 and she discuss?

11 A. She came to the Dover office
12 and met with me, asked me to give a statement. And I,
13 you know, as I mentioned, in a cold, dark room. I
14 said I would not. I asked her what had I done, let me
15 see some evidence. She would not produce anything.

16 Q. Did she tell you that you
17 were being accused of improperly running checks or
18 directing others to run checks?

19 A. She just kept saying
20 improper check procedures. I'm like, what improper
21 check procedures?

22 Q. It is your testimony that

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Hue - Israel

1 Ted Fox was the decision maker, or you believed Ted
 2 Fox was the decision maker regarding your suspension
 3 and discharge?
 4 A. Ted was the one that
 5 contacted me. It was not Kathy.
 6 Q. My question was --
 7 A. Yes.
 8 Q. -- why do you believe he is
 9 the decision maker other than the fact that he was in
 10 charge of the Commercial Division? Any other
 11 division?
 12 A. Because he personally
 13 contacted me.
 14 Q. He delivered the message?
 15 A. Yes.
 16 Q. Any other reasons besides he
 17 was in charge of Commercial and he personally
 18 contacted you?
 19 A. No.
 20 Q. Do you know Mark Lefevre?
 21 A. Yes.
 22 Q. Who is he?

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Hue - Israel

1 A. He was a collector in Dover.
 2 Q. Did you have a bad
 3 relationship with him?
 4 A. As a general collection
 5 manager, you have interesting relationships with your
 6 collectors. You have been in the industry long enough
 7 to know how it works.
 8 Q. They lie all the time?
 9 A. Yes.
 10 Q. What would you expect him to
 11 lie about?
 12 A. Additionally, checks have
 13 been re-dep-ed with no hope of cashing. I don't know
 14 who signed it because they're not signed.
 15 Q. This one is.
 16 A. Okay.
 17 Q. I'll show it to you.
 18 A. Please.
 19 Q. This one is signed by him.
 20 I believe it's signed by him.
 21 A. There is one that I read
 22 that we thought was quite funny, considering Mark's

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Hue - Israel

1 history. That was, indeed, Mark.
 2 Q. I think it's Mark. That's
 3 what I understood. That's what was told to me.
 4 Assuming for the moment it is Mark,
 5 would he have any reason to lie about you as far as
 6 you know?
 7 A. I was told that it was Ted
 8 that contacted the individual collectors. And I'm
 9 going to say that I would only imagine how I would
 10 feel if I had the person running the corporate office
 11 calling me asking me for information. I would be very
 12 cooperative to keep my own job.
 13 Q. Mm-hmm. Same thing for Brad
 14 Reavis, R-E-A-V-I-S?
 15 A. Mm, mm.
 16 Q. You have to say yes.
 17 A. Yes.
 18 Q. Same thing for Kim Marlow?
 19 A. Absolutely.
 20 Q. Well, what about, have you
 21 seen Eric Shaw's statement?
 22 A. Yes.

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Hue - Israel

1 Q. Dated January 22, 04.
 2 A. Yes.
 3 Q. It said, this statement is
 4 false, also?
 5 MR. HOMER: Let her look at
 6 the statement.
 7 BY MR. ISRAEL:
 8 Q. Of course. If you are
 9 familiar with the statement. He is making
 10 acquisitions. I understood that your office, through
 11 your collectors, are improperly putting checks on the
 12 system. That's what I get from the statement. Did
 13 you also get that?
 14 MR. HOMER: She hasn't even
 15 seen it.
 16 MR. ISRAEL: Oh, yes, she
 17 has. She just testified she did.
 18 MR. HOMER: How long ago?
 19 MR. ISRAEL: I don't know.
 20 BY MR. HOMER:
 21 Q. When was the last time you
 22 saw the statement, Miss Hue?

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Hue - Israel

1 A. Okay. What was your
2 question?
3 Q. Is Eric Shaw making unfair
4 allegations?
5 A. What do you consider unfair
6 allegations?
7 Q. Well, I'm asking you. You
8 have read the statement now. Are his statements
9 correct? I gleaned from that statement that he is
10 saying that your office is improperly redepositing
11 checks, and that's the practice.
12 MR. HOMER: Wouldn't it be
13 simpler to ask her the question in that
14 form rather than make her characterize
15 every sentence in the statement?
16 MR. ISRAEL: That was my
17 question to begin with. You made her
18 read the statement. That was my
19 question.
20 MR. HOMER: She has to read
21 it line by line.
22

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Hue - Israel

1 BY MR. ISRAEL:
2 Q. Let me ask it this way. I
3 understand Mr. Shaw is improperly accusing you
4 indirectly as being responsible for your office in
5 depositing checks, that it was done wrongly?
6 A. I don't gage that from
7 reading this.
8 MR. HOMER: Wait until he
9 asks a question that makes some sense.
10 THE WITNESS: Okay.
11 MR. ISRAEL: You don't have
12 to be nasty. I'll rephrase the
13 question.
14 MR. HOMER: It is getting a
15 little frustrating, Dave.
16 MR. ISRAEL: It is a little
17 frustrating. You keep interpreting.
18 MR. HOMER: I interrupt only
19 when you ask a question that is not
20 understandable.
21 BY MR. ISRAEL:
22 Q. I disagree. You interrupt

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Hue - Israel

1 plenty of times when they are fully understandable
2 even though I will withdraw the last one as not
3 understandable.
4 First of all, did you read that
5 statement before today?
6 A. I have read it, yes.
7 Q. Do you understand that
8 Mr. Shaw in that statement to be suggesting that your
9 office is improperly depositing checks? Yes or no.
10 MR. HOMER: I'm going to
11 object on the grounds that the document
12 does speak for itself. You go ahead and
13 answer it.
14 THE WITNESS: Yes and no.
15 BY MR. ISRAEL:
16 Q. Well, what part is yes and
17 what part is no?
18 A. He followed the procedure
19 where he was to contact the collectors. He will go
20 over them individually. He followed the procedure
21 where no stop payment, too many NSF's would go on. He
22 followed the procedure and had given it to Mike Scher.

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Hue - Israel

1 He followed many of the procedures. This practice has
2 been going on as long as I can remember, even as a
3 collector from past managers. That's how we did it in
4 the office. We had to go through this procedure.
5 Q. Well, before February of 03,
6 you are saying they were all just deposited regardless
7 if there was verification?
8 A. When he was speaking of past
9 managers, he was speaking of former GCF's.
10 Q. So as you sit here now, you
11 have no earthly idea as to why you were fired; is that
12 fair?
13 MR. HOMER: Objection. She
14 has never said that.
15 BY MR. ISRAEL:
16 Q. Well, is that a fair
17 summary, though? Let me say it differently then. In
18 your opinion, the allegations that you were violating
19 NCO's check handling procedures are totally absurd?
20 A. Yes.
21 Q. At no time did you ever do
22 anything, directly or indirectly, in violation of

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1 NCO's procedures regarding the submission of NSF
2 checks?
3 A. No.
4 Q. And at no time do you have
5 any recollection that any of your collectors violated
6 NCO procedure regarding the submission of NSF checks?
7 A. I cannot answer that.
8 Q. As you sit here, you don't
9 know of any?
10 A. I do not, I can't answer
11 that. I don't know what they did or did not do.
12 Q. To the best of your
13 knowledge.
14 A. I will not answer that. I
15 do not know.
16 Q. Do you have any knowledge
17 that they violated the procedure?
18 A. Obviously, Matt Lane
19 violated the procedure. I'm not sure of other
20 collectors that have not been caught yet through
21 investigation, so I don't feel comfortable answering
22 that question.

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1 Q. Have you seen the sworn
2 statements of Brian Laiche, Darron DeEsch, Steve Ross,
3 Chris Salasiero, Lenny Ciccarone, Mannie Cardozo, Joe
4 Batie, and Mike Scher?
5 A. I read those yesterday.
6 Q. And Joe Thomas?
7 A. Yes.
8 MR. HOMER: Are those all
9 the identical statements? Can I get one
10 of them to look at?
11 MR. ISRAEL: Sure. They're
12 not quite identical, but they're very
13 similar.
14 BY MR. ISRAEL:
15 Q. Do you have, which statement
16 in front of you?
17 A. Brian.
18 Q. Paragraph two, take a look
19 at that. At any time did Kathy Obenshain ever
20 instruct you to redeposit checks without verification
21 of funds?
22 A. Mm-hmm.

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1 Q. Yes; is that what you are
2 saying?
3 A. I'm reading the statement.
4 Q. Oh.
5 A. You are asking me a question
6 about that?
7 Q. Yes.
8 At any time did Kathy Obenshain instruct
9 you to redeposit checks without verification of funds?
10 A. If you cannot reach a bank,
11 which is verification of funds, yes.
12 Q. Okay. Did you ever witness
13 Miss Obenshain instruct any other managers to
14 redeposit checks without verification of funds?
15 A. No.
16 Q. I'm talking about in a
17 general meeting, where you would have conference calls
18 with other GCM's and Miss Obenshain. You participated
19 in that?
20 A. Yes.
21 Q. Did she ever say, I want you
22 to redeposit checks without verification of funds?

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1 A. She would say, go through
2 and see what you can get on the system, in her normal
3 flip little way.
4 Q. Okay.
5 (whereupon an off-the-record
6 discussion was held.)
7 BY MR. ISRAEL:
8 Q. Do you believe that Kathy
9 Obenshain had any influence relating to the decision
10 you be discharged?
11 A. Very little.
12 Q. What is the basis of that
13 belief?
14 A. A conversation I had with
15 Kathy.
16 Q. When was this conversation?
17 A. The day before I was
18 suspended.
19 Q. What did Miss Obenshain and
20 you discuss?
21 A. The firing of Matt Lane, the
22 analysis that I had done, and her response to me that

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Hue - Israel

1 I had done a great job.

2 Q. Well, at the time that you

3 had that discussion with Kathy Obenshain, do you know

4 whether issues relating to check handling in your

5 branch had been brought to Miss Obenshain's attention?

6 A. Yes, I do.

7 Q. How do you know that?

8 A. Because she was referring to

9 Matt Lane and to my analysis, which was in response to

10 an email that she had gotten from corporate, and

11 regarding check handling throughout all of Commercial

12 because there were many, many checks from other

13 offices, not just Dover.

14 Q. Now I'm confused on what you

15 told me. Were there other checks that were

16 problematic so far as corporate was concerned in your

17 office for December of 03 besides Matt Lane's?

18 A. There was a list that was

19 generated by someone in Horsham or wherever that had

20 checks from all offices that were on a spreadsheet.

21 And as I stated earlier, all the GCM's were to give an

22 analysis.

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Hue - Israel

1 Q. For the checks that related

2 to your office, aside from Matt Lane's, were there

3 other problem checks so far as corporate was concerned

4 in December of 03?

5 A. I'd have to give an

6 explanation.

7 Q. Did the explanations you

8 gave for those checks, did Miss Obenshain accept those

9 explanations as satisfactory?

10 A. Yes.

11 Q. What changed between your

12 explanations to Miss Obenshain regarding those

13 problematic checks and your discharge, or your

14 suspension; do you know?

15 A. I really can't answer that.

16 I don't know, other than Ted Fox contacted me the next

17 day.

18 Q. He didn't tell you anything

19 except, as you have described, check handling process

20 was a problem, correct?

21 A. Check handling procedure or

22 process or something to that effect. Exact verbiage,

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Hue - Israel

1 I do not remember.

2 Q. Did anyone describe to you

3 what the problems were before you were separated?

4 A. No.

5 Q. You spoke to Steve

6 Leckerman?

7 A. Yes.

8 Q. Did you understand that he

9 was Ted Fox's boss?

10 A. Yes.

11 Q. I have your January 22, 2004

12 email to him; do you remember writing that?

13 A. I'm sure, yes.

14 Q. You said, "I was placed on

15 suspension with pay due to two concerns: Not pulling

16 checks and recreating DCI on re-deps."

17 MR. HOMER: I want her to

18 look at the document to answer specific

19 questions about the wording in it.

20 MR. ISRAEL: Let me ask you

21 a couple of questions before looking at

22 the document.

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Hue - Israel

1 MR. HOMER: If you are going

2 to ask questions about the document, she

3 has a right to look at the document.

4 You are quoting the thing from her. Who

5 knows if it is in context or not?

6 MR. ISRAEL: Who knows? You

7 can do it yourself. I don't have to

8 give her the document. There's no such

9 rule.

10 MR. HOMER: I disagree.

11 MR. ISRAEL: Show me the

12 rule. I'll be happy to comply.

13 MR. HOMER: She has a right,

14 if you refer to the document, to look at

15 it.

16 MR. ISRAEL: I disagree, but

17 I understand your objection.

18 BY MR. ISRAEL:

19 Q. The two concerns are: Not

20 pulling checks, what does that mean to you?

21 MR. HOMER: I'm going to

22 object unless she has a chance to look

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1 Hue - Israel
at the document.

2 BY MR. ISRAEL:

3 Q. What does that mean to you,
4 not pulling checks?

5 A. Can I look at the document?

6 Q. You can in a minute. Just
7 try to --

8 MR. HOMER: She has
9 requested to look at the document. You
10 have asked her a question about what the
11 document says. You are not going to let
12 her look at the document?

13 MR. ISRAEL: What I'm asking
14 is for you to stop interrupting and
15 coaching your witness.

16 MR. HOMER: I'm not coaching
17 the witness.

18 MR. ISRAEL: If she can't
19 answer the question, then she can't
20 answer it. She will say, "I don't
21 know."

22 MR. HOMER: Can we take a

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1 Hue - Israel
five-minute break?

2 Whereupon a recess was held.

3 BY MR. ISRAEL:

4 Q. What I'm asking you for
5 first, do you see where it says the two points, second
6 line, not pulling checks; do you see that statement?

7 A. I was actually reading the
8 full document. What point did you want me to read
9 back?

10 Q. Second paragraph, 121, see
11 that? Not pulling checks, see that?

12 A. Mm-hmm.

13 Q. What do you mean by that?

14 MR. HOMER: You need to look
15 at the whole document to understand the
16 context of that.

17 THE WITNESS: I'm okay with
18 that one paragraph. There are times
19 when a collector will come to you and
20 ask to move checks to another month.

21 BY MR. ISRAEL:

22 Q. Okay.

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1 Hue - Israel
A. And your job as GCM is to
2 identify why.

3 Q. Okay.

4 A. As a collector, and as you
5 know dealing with collectors, their mind set is to
6 recover funds for their commission checks. There's
7 normally a reason why. It could be sand bagging is a
8 reason, or is there an actual legitimate reason. My
9 job was to investigate and find out. You can never, I
10 never said to a collector in his face, you are sand
11 bagging. But when I looked at where he was at month
12 to date, and again this is by individuals, when I look
13 at the collector month to date to see where his number
14 was, when I looked at the notes on the file, I would
15 say, there's no reason to pull this. You haven't
16 called the debtor to verify the funds or anything.
17 You haven't verified the check.

18 Q. Pulling means not submitting
19 it?

20 A. Why don't you pull it? Call
21 the debtor first. Do you want to pull the check off
22 the system?

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1 Hue - Israel
Q. What was the complaint
2 against you, that sometimes you were or were not
3 permitting collectors to pull checks?

4 A. Apparently, sometimes I was
5 not letting collectors pull things off the system.

6 Q. Meaning that a check was
7 being left on the system that someone at NCO felt
8 should not have been?

9 A. That a collector might have
10 asked to be pulled. The other instance was by
11 corporate mandate that no checks could be pulled off
12 the system unless they were put on within 24 hours.
13 You had to give them notice many times, especially
14 EOM.

15 Q. End of month?

16 A. End of month, it is too
17 late, you can't pull it.

18 Q. Because it is within 24
19 hours?

20 A. Mm-hmm. That was nine times
21 out of ten. Collectors, being a collector myself, it
22 would make them upset. There was nothing I could

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Hue - Israel

1 physically do about it.

2 Q. Could you read the second

3 part that says and, read it out loud. Two things, it

4 says right here, "not pulling checks and" --

5 A. "Recreating DCI's on

6 re-deps."

7 Q. What does that mean?

8 A. That means redepositing of

9 nonsufficient fund checks.

10 Q. Is that what Matt Lane did?

11 A. No. Matt Lane was

12 terminated for changing dollar amounts without

13 authorization. This is about redepositing checks.

14 Q. In violation of whatever

15 policy there was?

16 A. This is about redepositing

17 checks.

18 Q. And what specifically were

19 you accused of doing wrong about redepositing checks;

20 do you know?

21 A. What I heard was check

22 handling, verification, not verifying, something like

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Hue - Israel

1 that.

2 Q. Not verifying that the funds

3 were there?

4 A. Mm-hmm.

5 Q. You have to say yes.

6 A. Yes.

7 Q. Who told you that?

8 A. Correction. I was told for

9 improper check handling procedures, I was told why I

10 was terminated for the first time at my unemployment

11 hearing by Mike Scher who made that statement. That

12 was the reason why.

(Deposition Exhibit Number Hue
11 was marked for
identification.)

BY MR. ISRAEL:

17 Q. Can I see that back for a

18 moment? When you talked to Leckerman, did you talk

19 about the substance of this memo?

20 A. No.

21 Q. How did you know to write

22 all of these issues if nobody had told you why you

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Hue - Israel

1 were being suspended?

2 A. I am not an idiot.

3 Q. Okay. So you surmised these

4 were the issues?

5 A. When I received Kathy

6 Obenshain's email about checks and the issue of checks

7 throughout NCO Corporate Commercial Division, these

8 were the issues of many branches. And it was not, as

9 said, until an unemployment hearing that I was told

10 the exact reason.

11 Q. Well, again, I'm not being

12 flip with you, and I'm not suggesting that you are an

13 idiot. There's an awful lot of specific information

14 that you are providing to Leckerman?

15 A. Yes. I'm fighting for my

16 job.

17 Q. Again, when you say you are

18 not an idiot, how did you know that all of those types

19 of issues were a problem?

20 MR. HOMER: She has answered

21 the question once already. You are

22 asking for other information?

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Hue - Israel

1 BY MR. ISRAEL:

2 Q. Yes.

3 A. I don't recall it being all

4 that information. There's two things that I'm

5 explaining. Those were the two things that Kathy had

6 asked explanations for via her email. I am actually

7 just going with the flow explaining what happened.

8 And as I stated, I was told that I was terminated for

9 not verifying checks, not for not pulling checks, not

10 for, not DCI's, for not verifying checks.

11 Q. What does DCI stand for?

12 A. Direct check information,

13 also known as check fax forms.

14 Q. In your statement, in the

15 5th paragraph you say, "Yes, I should have given Eric

16 clearer direction." What did you mean about that?

17 That was the month that you were gone?

18 A. Yes.

19 Q. What clear direction should

20 you have given Eric Shaw?

21 A. I should have made sure Eric

22 had all the hold check or redeposit forms filled out.

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Hue - Israel

1 A. Was I surprised by the
2 accusations? I had read his accusations from his
3 unemployment hearing, so I was not surprised.

4 Q. Did Kathy Obenshain ever
5 make any racist comments to you?

6 A. About me?

7 Q. Yes.

8 A. No, not that I'm aware of.

9 Q. Did she ever make any
10 comments of a sexually discriminating nature?

11 A. To me?

12 Q. Yes.

13 A. About men or female?

14 Q. That's an interesting
15 question.

16 A. I don't understand your
17 question.

18 Q. Let us start first with
19 females. You don't believe that Kathy Obenshain
20 discriminated against you because of your sex?

21 A. No.

22 Q. Do you believe that Kathy

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Hue - Israel

1 Obenshain discriminated against you because of your
2 race?

3 A. No.

4 Q. Aside from Ted Fox. Do you
5 believe that Ted Fox used or contrived issues
6 regarding check handling to have you fired in
7 retaliation for you complaining about Bill Savage?

8 A. Absolutely, except for the
9 timing.

10 Q. He never said that to you,
11 did he?

12 A. To say, I'm going to
13 retaliate against you?

14 Q. Or anything to that effect
15 that he was going to get back at you or retaliate
16 against you or somehow hurt you as a result of you
17 complaining about Bill Savage?

18 A. No.

19 Q. Did anyone ever report that
20 to you that they had heard that Ted Fox had it in for
21 you because of your reporting about Ted Savage?

22 A. There were rumors that Ted

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Hue - Israel

1 did not like me because of what I did to Bill. That
2 had been circulated for years.

3 Q. Where did you hear those
4 rumors from?

5 A. Numerous employees, past and
6 present.

7 Q. Who would those employees
8 be?

9 A. It would be a very long
10 list. I would have to look at the employee roster.

11 Q. Can you give me one?

12 A. Rick Boudreau.

13 Q. Rick Boudreau told you that
14 he believed Ted Fox had it in for you because of your
15 reporting about Ted Savage?

16 A. No.

17 Q. How did Rick Budreau report
18 something like that to you?

19 A. He said that Ted was not
20 happy with what I had said about Bill.

21 Q. Anyone else?

22 A. There was a lot of empathy

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Hue - Israel

1 apparently when Bill was terminated.

2 Q. Empathy?

3 A. There were numerous comments
4 from especially the white males of NCO about Bill's
5 comments in that they didn't think it was right for me
6 to be terminated for such comments made in the office.
7 It was a collection agency, for God's sake.

8 Q. Who made those comments?

9 A. Many people did.

10 Q. Can you name any of them?

11 A. You are asking me to go back
12 years and reflect. I would be, I'm paraphrasing the
13 statements, and I don't want to give the answer I'm
14 not a hundred percent sure of.

15 Q. Can you think of one person
16 who made some comments to the effect that Bill Savage
17 shouldn't have been fired?

18 A. Mike Scher had questioned
19 his termination at one time.

20 Q. Okay.

21 A. And that's all I can recall
22 at this point in time. There was just, you know, it

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Hue - Israel

1 is just rumored, second and third hand information
 2 that was going through the office. Bill was an icon
 3 at that office. And it wasn't until a white male made
 4 the complaint that they took it seriously. I made my
 5 complaints. No one took it seriously.

6 (Deposition Exhibit Number Hue
 7 12 was marked for
 8 Identification.)

9 BY MR. ISRAEL:

10 Q. Let me show you what I'm
 11 going to mark as Hue number 12. That is what I
 12 understand to be your charge of discrimination dated
 13 February 3 of 04; is that correct? Is that your
 14 signature?

15 A. Yes.

16 Q. Did you consider your
 17 complaints against Mr. Savage to be sexual harassment
 18 or racial harassment or both?

19 A. Both.

20 (A brief recess was taken.)
 21 (Deposition Exhibit Number Hue
 22 13 was marked for

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 Identification.)

2 BY MR. ISRAEL:

3 Q. Any changes from your
 4 previous testimony?

5 A. What was the previous
 6 testimony?

7 Q. Anything that you have told
 8 me during the day, any changes?

9 A. Not at this moment.

10 Q. Okay. In your charge, you
 11 wrote, "During a company conference call with all
 12 collections managers of Commercial Division throughout
 13 the company, the issue of redepositing checks was a
 14 topic discussed. Marlow, Shaw, Nickerson were all in
 15 attendance with me in response to Dover duplication."
 16 Kathy Obenshain stated that she did not
 17 want any checks deposited without verification?

18 A. Mm-hmm.

19 Q. Was that conference call
 20 after the March 03 email that we have looked at from
 21 corporate?

22 A. Are we in paragraph three?

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1 Q. I can show you.

2 A. There it is. This call that
 3 I'm referring to took place in 2004. And it was on a
 4 conference call. It was, I think the 20th of the
 5 month. I might be wrong with the date.

6 Q. Right before you were
 7 suspended?

8 A. Yes, because she had gotten
 9 bombarded with these emails and analysis reports that
 10 she wanted us all to do. She at that point made that
 11 statement that from this point on, and Mac McKenzie
 12 made a statement.

13 Q. Describe for me the process
 14 about submitting DCI's for an NSF check; how did that
 15 work?

16 A. My administrative assistant
 17 would, a DCI is just a check fax. I mean, that's what
 18 we called it in our office, not so much DCI. The
 19 collector would fill out a form. It was a redeposit
 20 form.

21 Q. For a previously submitted
 22 check that had been returned to NSF?

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Hue - Israel

1 A. Right. They would create a
 2 form in our office called a redeposit form.

3 Q. That redeposit form would be
 4 validated by the debtor?

5 A. It would be validated by the
 6 collector, and then I would have to sign off on it.
 7 Then I would give it to my administrative assistant.
 8 And she would follow the process, email, fax up to
 9 Horsham to get it posted.

10 Q. But would the debtor sign
 11 the DCI form?

12 I guess now I'm confused as to the
 13 process. Debtor submits an NSF check?

14 MR. HOMER: What?

15 BY MR. ISRAEL:

16 Q. A debtor submits a check
 17 that goes NSF.

18 A. Right.

19 Q. Okay. The DCI form is used
 20 to substitute for that NSF check?

21 A. I think you are confused.

22 Q. I'm confused. Let us start

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Hue - Israel

1 over because I'm totally confused now. Describe for
2 me a check fax.

3 A. A check fax is, and slash
4 DCI, is where a collector speaks to a debtor over the
5 phone. They take the check information over the
6 phone. They submit, they input the information into
7 the computer system. They would drop a form into my
8 clerical bin and the check would be created on the
9 date that that check was dated for by Horsham.

10 Q. That would be with the
11 debtor's permission?

12 A. Yes.

13 Q. In fact, in the Commercial
14 Division, it would be taped?

15 A. Yes.

16 Q. If that form went NSF, what
17 would happen?

18 A. Then the collector would
19 submit a redeposit form.

20 Q. For the DSI or the check
21 fax?

22 A. For that check to be

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Hue - Israel

1 resubmitted to go back off, yes.

2 Q. Before the collector was
3 permitted to do so, that's where the procedure would
4 be in place to verify funds would be available?

5 A. They would have to go
6 through several steps, calling the debtor, verify
7 source of funds, qualify the source of funds, bla,
8 bla, bla. They would put it on the form as the reason
9 why the check should be resubmitted. And it would be
10 given to my administrative assistant. She would take
11 care of administrative process, whatever it would be.

12 Q. Did you understand that you
13 were being accused in part for collectors not
14 following that process relating to the resubmission of
15 bounced check faxes?

16 A. I understood that I was
17 terminated for nonverification of checks.

18 Q. Would this issue of
19 nonverified DCI or check fax forms fit into that same
20 reason?

21 A. No.

22 Q. That's different?

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Hue - Israel

1 A. Mm-hmm. That sounds
2 different to me as what you are saying.

3 Q. What I'm trying to
4 understand is what I understood as to why you were
5 fired versus what I understand from the documents.

6 A. I still don't understand why
7 I was fired. However from what I read from Mike
8 Scher, I was terminated for not verifying funds.

9 Q. Whether it be from an NSF
10 check or a return DCI form?

11 A. Those are one and the same.

12 Q. Because the check fax, DCI
13 form creates a check?

14 A. Right.

15 Q. Which, in effect, can then
16 go NSF?

17 A. Right.

18 Q. Now, in this January 20th,
19 2004 meeting, which I understand you estimated to be
20 the exact time when Kathy Obenshain said that she
21 didn't want any checks deposited without verification,
22 did she explain what she meant by that?

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Hue - Israel

1 A. Yes. She explained it, and
2 she followed up with an email to all general
3 collection managers, which I believe you might have a
4 copy of.

5 Q. How did she explain during
6 the conversation what she wanted at that point?

7 A. I don't recall specifically
8 what she said. She filed an email. I believed, and I
9 might be incorrect about this, she said that she would
10 follow up with an email for all of us to follow from
11 that point forward.

12 Q. Here you say, "There was
13 another process in place for handling redeposits,
14 which I followed. None of my similarly situated
15 coworkers were disciplined for following the same
16 process I followed."

17 A. Mm, hmm.

18 Q. You have to say yes.

19 A. Yes.

20 Q. What was the process that
21 they followed? The reason I'm asking is I understood
22 from your previous testimony that you didn't know what

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Hue - Israel

1 the validation process was for the other offices.

2 A. The reason I put that

3 statement in there was because on the conference call,

4 Mac McKenzie stated on the conference call that he did

5 not verify any of his checks that were deposited in

6 December. He stated that. So I recanted and put that

7 in there about Mac McKenzie. So --

8 Q. I didn't mean to interrupt.

9 A. That's okay. I'm done.

10 Q. Do you believe that Joe

11 Batie was violating the rules the same as you?

12 A. I do not believe I violated

13 a rule, number one. Number two, Joe Batie is not a

14 collection manager. He is a general manager over the

15 branch.

16 Q. You know he had collectors

17 working for him in December of 2004?

18 A. No, I did not know.

19 MR. HOMER: Are you talking

20 about December 2003?

21 MR. ISRAEL: I'm sorry.

22 December 2003.

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Hue - Israel

1 BY MR. ISRAEL:

2 Q. What about Joe Thomas; do

3 you know he is African American?

4 A. He wasn't, there was no

5 African American males that I knew of that were GCM's

6 when I was present in 2003.

7 Q. Okay. Can I see that back?

8 A. Sure.

9 Q. You say Bill was terminated

10 for sexual harassment after the company's

11 investigation. You told me you mean harassment and

12 improper treatment on the basis of race, correct?

13 A. I believed one thing when I

14 wrote that document. Since this process began, I have

15 learned more information, so I clarified it.

16 Q. Why did you believe that

17 Savage was terminated for sexual harassment?

18 A. Because he had made sexual

19 comments.

20 Q. Okay. But what I'm asking

21 is: You had previously told me that no one had ever

22 had confirmed to you why Savage was terminated.

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Hue - Israel

1 A. I guess one and one is two.

2 I just assumed.

3 Q. He had also made racial

4 comments?

5 A. Yes.

6 Q. In your opinion, were you

7 doing a good job as a general collections manager?

8 A. Yes.

9 Q. Was that based upon the

10 numbers in your office?

11 A. That was based on numerous

12 things.

13 Q. Kathy Obenshain had said

14 complementary things to you?

15 A. Yes, and emailed, and

16 verbally.

17 Q. Had others?

18 A. Yes.

19 Q. Was there anybody who had

20 been criticizing you before you had been suspended

21 relating to your performance?

22 MR. HOMER: At any time

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Hue - Israel

1 before she was suspended or what time

2 frame?

3 BY MR. ISRAEL:

4 Q. As the GCM.

5 A. Can you repeat your

6 question?

7 Q. Before your suspension, was

8 there anyone at NCO who had been criticizing your

9 performance as a GCM?

10 A. Collectors, as always,

11 complained when they don't get their way.

12 Q. Anyone in management?

13 A. I heard that, and this is

14 rumor. I shared that Mike Scher was not very happy

15 because there was rumor that I was going to take his

16 job because Leckerman didn't like him. I don't know.

17 So there was just rumors.

18 Q. Anything direct?

19 A. Direct from people, written?

20 No.

21 Q. Like from Leckerman or from

22 Phil Weaver, or from Kathy Obenshain, or from any of

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Hue - Israel

1 commission, and I also received a bonus. I do not
 2 understand the rest of your question.
 3 Q. You testified that
 4 collectors who improperly were paid on an NSF check --
 5 A. Mm-hmm.
 6 Q. -- held that money until it
 7 was backed off the next month?
 8 A. Mm-hmm.
 9 Q. Was there a similar dynamic
 10 with your pay?
 11 A. Well, if I got a commission,
 12 it would be a miracle. So it didn't affect me as GCM
 13 whatsoever. I believe I got very little commission,
 14 but bonus for contest.
 15 Q. You would qualify for a
 16 bonus or a contest based upon end of month numbers,
 17 correct?
 18 A. No.
 19 Q. Based upon end of quarter
 20 numbers?
 21 A. Sometimes. Based upon post
 22 date numbers, based upon three month postdate numbers,

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Hue - Israel

1 based upon who had the happiest office, stuff.
 2 Q. Were those bonuses ever
 3 affected by the inclusion of NSF checks that
 4 eventually would later be backed off?
 5 A. No.
 6 Q. In paragraph 16 of your
 7 complaint you allege that defendant's management made
 8 racially charged comments including one regarding the
 9 number of black employees at the Dover office to the
 10 effect that the office "looks like a Tarzan movie."
 11 Who made that comment? Savage?
 12 A. Savage had made that
 13 comment. Second hand. I had heard that Mike Scher
 14 had made that comment.
 15 Q. Did you hear Mike Scher make
 16 that comment?
 17 A. No, I didn't. I said second
 18 hand, I heard that Mike Scher had made that comment.
 19 And I believe Kim Marlow said she had heard that
 20 comment. Of course, many people would not come to me
 21 with such stuff. It wouldn't be wise.
 22 Q. Did you hear Savage make the

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Hue - Israel

1 comment?
 2 A. I did not hear Savage
 3 personally make the comment.
 4 Q. Did you ever hear anyone
 5 personally make the comment?
 6 A. He never made the comment to
 7 me.
 8 Q. No. Did you --
 9 A. He did state.
 10 Q. That wasn't my question.
 11 Did you ever hear anyone in management make that
 12 comment?
 13 A. I've heard, yes.
 14 Q. Who was that?
 15 A. I was going to say Savage
 16 had made a comment, but it wasn't the Tarzan movie.
 17 He had said it looked like some kind of jungle bunny
 18 something he had made, comment about African Americans
 19 in the office. I believe Rick Boudreau made those
 20 comments, I believe.
 21 Q. In your complaint you allege
 22 that Savage is or was the friend and mentor of Ted

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Hue - Israel

1 Fox?
 2 A. Yes.
 3 Q. Why do you believe that,
 4 that was he was the friend or mentor?
 5 A. When Ted was brought to our
 6 office initially, he was under the mentorship of Bill
 7 Savage. When Bill introduced him as a person from
 8 corporate to all of us in a general employee meeting
 9 many years ago, and that he was, I guess on a quick
 10 start or quick, an executive program that Ted was on,
 11 and etcetera. That's how he announced him to them.
 12 They went and made trips together, etcetera, etcetera.
 13 (A brief recess was taken.)
 14 BY MR. ISRAEL:
 15 Q. How often do you see anyone
 16 relating to psychiatric problems?
 17 A. Honestly. Once a week I'm
 18 on what they call a hot list or lot line on a daily
 19 basis because I have been quite depressed. But once a
 20 week with my psychiatrist.
 21 Q. And are there any other
 22 stressors in your life besides the issues relating to

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Hue - Homer

1 MR. HOMER: All these were
2 in one location?
3 THE WITNESS: They were
4 normally in a file cabinet to the left.
5 They kept those forms for years.

6 BY MR. HOMER:

7 Q. Would it be fair to say that
8 they could retrieve the forms by opening a file drawer
9 and pulling out the forms, where they collect those
10 forms?
11 A. If that same system is being
12 used in location, yes, it should not be hard to
13 retrieve.
14 Q. Okay. Do you know whether
15 this form was used in other offices other than the
16 Dover office?
17 A. I know other offices use
18 similar types of documents. I'm not sure if they
19 called it a hold check request form. But they used
20 something that they had, they were required to use
21 something that the collector would have to fill out to
22 move around fees off the system. We just happened to

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Hue - Homer

1 call it, Paul called it a hold check request form.
2 Q. Do you have any idea of how
3 many of these forms there might have been in say a
4 6-month period back in 2003, the last 6-month period?
5 A. There might be perhaps maybe
6 a few hundred from my office.
7 Q. And they would have been
8 arranged chronologically?
9 A. Yes.
10 MR. ISRAEL: Is it one per
11 collector per month, or one per day?
12 MR. HOMER: You know what?
13 You can ask redirect questions. That's
14 not appropriate. You can't step into my
15 questioning. You know that.
16 MR. ISRAEL: I am just
17 trying to help so I can get the forms.

18 BY MR. HOMER:

19 Q. Let us turn to the re-dep
20 form. Was that also called U-deposit?
21 A. It was, sometimes you called
22 it U-deposit or re-dep form. It was, again, that was

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Hue - Homer

1 created in our office. That's what we labeled it.
2 Q. What does this form, what
3 was this form used for?
4 A. This was for when checks
5 came back nonsufficient funds via check fax or checks
6 that were mailed directly to corporate. The collector
7 had to go through these various steps and submit this
8 form to me for signature to put the check back on.
9 And my admin would send it off to corporate to have
10 that check processed again.
11 Q. What would that show
12 regarding your compliance with the check handling
13 process?
14 A. It would show that the
15 collectors should have put on there the account
16 numbers. It would show why they wanted the checks
17 redeposited, VI, the source of funds, what was the
18 story.
19 Q. These are forms that were
20 prepared by whom?
21 A. They were prepared by the
22 individual collector.

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Hue - Homer

1 Q. And they were maintained by
2 whom?
3 A. They were maintained by an
4 administrative assistant in my office.
5 Q. And you say, were they sent
6 on to some other office?
7 A. She will compile the data,
8 and then on a daily basis, if she got any of this, she
9 would send it up to Horsham -- I'm not sure of the
10 method, via email or fax -- that she would compile
11 that information and send it off.
12 Q. Would she compile
13 information from the forms, or would she actually send
14 the forms themselves?
15 A. I believe she compiled the
16 information. I do not believe she put down what
17 verification method was used. It was just that,
18 please submit this check, please redeposit this check,
19 please redeposit this check. I don't believe she
20 actually sent the actual form. I could be mistaken.
21 Q. Do you know how the forms
22 were maintained? Was there a separate file for these

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Hue - Homer

1 forms?

2 A. Yes. They were a separate

3 file. One of my admins made payment by collector.

4 Then I think they started maintaining on a monthly

5 basis. But for the most part they were maintained by

6 collectors.

7 Q. How difficult would it be to

8 go to the file and pull out these forms for any given

9 period of time?

10 A. It should not be difficult

11 at all. They used to keep these forms going back

12 years, when I was a producer, so it shouldn't be hard

13 at all.

14 Q. Were they filed

15 chronologically?

16 A. Yes, they were. Of course,

17 I don't know where they are now.

18 Q. Okay. Would other offices

19 use the same form?

20 A. They would use something

21 similar, perhaps not called the same exact thing. But

22 there was a process they had to follow in order to

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Hue - Homer

1 verify that the checks have been going through the

2 various steps.

3 Q. Let us turn to the post date

4 check report. What is that document?

5 A. That is ran off of CRS, the

6 computer system of NCO. My admin would pull it by

7 collector, and it will list all the post dates for

8 collector for that given month. She would add two or

9 three months, but for that month. She would use that

10 report to start verifying the checks.

11 Q. Oh, so she would, this was a

12 report that she, the admin prepared?

13 A. Right. She prepared the

14 report off the system.

15 Q. How frequently did she

16 prepare the reports?

17 A. I believe in my office it

18 was ran on a, I want to say a weekly basis, but I know

19 towards the end of the month, it was done almost on a

20 daily basis. And her directive from me was it had to

21 be pulled a week before EOM to start the process, end

22 of month to start the process.

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Hue - Homer

1 Q. What would this report show

2 with respect to whether or not you followed the check

3 handling procedures at NCO?

4 A. This would show that she

5 contacted the banks, if the bank said yes or no, that

6 the checks were good, the checks were not good. She,

7 this was done by collector. She would then compile

8 the data, give it to me, cc Mike Scher on it. Then I

9 would use that information with the individual

10 collector. And I would sit down with them. Okay,

11 this check is good, this check isn't, you got to get

12 them on the phone, etcetera, to try to qualify the

13 source of funds, try to get the check good for

14 deposit.

15 Q. Do you have any idea how

16 many there would be for a 6-month period in the Dover

17 office? Let us go specifically to the last six months

18 of the year 2003.

19 A. There were probably one page

20 per collector. It is, you know, they didn't have

21 hundreds and hundreds of post dates. So probably one

22 page per collector in each office.

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Hue - Homer

1 Q. Again, these would be

2 arranged chronologically in one file drawer?

3 A. I don't think she even kept

4 those reports. You could pull them constantly,

5 whenever you wanted them, just go in and pull them. I

6 don't think she kept them, but that I'm not a hundred

7 percent sure. But you could just go in to, in CRS and

8 input it in the system and pull the reports up.

9 Q. So you don't know whether

10 those reports would even be maintained?

11 A. Right. The actual report

12 itself. The log itself, yes; but the actual report,

13 I'm not sure.

14 Q. What is the log you are

15 speaking of?

16 A. The log is, there was a

17 document that was shown to me earlier. And it would

18 have been an example of the log that she might have

19 used.

20 Q. Let me show you a document

21 and ask if this is a log. It's been Bates stamped

22 00014, plaintiff's Bates stamp number.

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Hue - Israel

1 Q. Can you tell from this
2 report whether the check was re-dep-ed?
3 A. There are codes, but I do
4 not remember what the codes are. There is various
5 codes, and it is, of course, I do not remember.
6 MR. HOMER: You may recall
7 the interrogatories asked for the codes.
8 THE WITNESS: So I could
9 decipher them.
10 MR. ISRAEL: These are
11 telling us that there is no code that
12 shows.
13 BY MR. ISRAEL:
14 Q. Let me ask it this way. Do
15 you believe that there was a code to show that a check
16 was re-dep-ed?
17 A. I believe there is a code
18 that shows a check that was redeposited.
19 Q. Because we asked and we were
20 told there wasn't? That's why I am asking you.
21 A. I believe there is a code.
22 My admin assistant used to have in my office all the

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Hue - Israel

1 various codes because there are so many codes on that.
2 It would show whether it was a check that was mailed
3 to corporate or whether it was a check fax or re-dep,
4 something of that nature. There were supposed to be
5 some kind of codes.
6 Q. Where would it be on this
7 form, the code?
8 A. May I review the form?
9 Q. Of course.
10 A. Again, I don't really recall
11 because it has been so long ago.
12 MR. HOMER: Do we know this
13 is the whole ledger? It might be cut
14 off. I don't know. There's more to it.
15 MR. ISRAEL: I think it
16 goes.
17 THE WITNESS: It goes side
18 by side. Some checks. Where you see,
19 it has clients. I think there's
20 something about the coding over here.
21 Again, I'm not really sure where the
22 code would be, GVMS, GVMS.

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Hue - Israel

1 BY MR. ISRAEL:
2 Q. To the extent that that was
3 codes, that's based upon your recollection as to the
4 work you had done with your admin?
5 A. Right. It just helps us to,
6 everything is coded. So just a little code sheet that
7 she broke down for me. I'm not sure where it is any
8 more.
9 Q. In the summary page, there's
10 no reference to any check being re-dep-ed that I see.
11 A. No. It just has NSF. It
12 has total NSF's. Right.
13 Q. Did you produce a copy of
14 the postdated check report that was run off by CRS
15 that you testified to?
16 A. I believe I did.
17 Q. Let me show you what I think
18 is Bates number 54. Is this it?
19 A. That is not the report
20 that's run off of CRS. That's the report that the
21 admin compiles once she gathers information off of
22 CRS.

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Hue - Israel

1 Q. That's the summary?
2 A. That's the summary. That is
3 not the actual report itself.
4 Q. A postdated check is a check
5 that's got a future date yet to be deposited?
6 A. Yes. As an example, we
7 started taking checks for April when it was only
8 December.
9 Q. And was there an obligation
10 before submitting a postdated check to insure that
11 there were funds?
12 A. No.
13 Q. So how would the postdated
14 check record play into any accusations against you
15 that you weren't handling checks properly?
16 A. Because it would go back to
17 the verification. The report itself is just a report
18 showing all postdates on this system.
19 Q. Okay.
20 A. The postdate check form
21 that, postdate check request form that I have my
22 collectors fill out, when it is about to be verified

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Hue - Israel

1 and deposited, is what I would use to show whether
 2 they followed the proper procedure or not, did they
 3 call the debtor or the bank. For example, a check
 4 that's solicited in January is not going to be
 5 qualified -- let me correct myself. A check that is
 6 solicited in January, obviously, that is dated for
 7 April, is not going to have, not going to have any
 8 quality or source of funds on it. It is just to go
 9 into the system. But when that day, when the day that
 10 the check is due to be deposited, then we go through
 11 this process of verification.

12 Q. That's what I was asking.
 13 So a postdated check, before it was deposited, it
 14 would have to be validated and verified?

15 A. It would either go through
 16 that system that we spoke of earlier.

17 Q. Were there accusations you
 18 understood against you that for postdated checks you
 19 were not following the rules right?

20 A. I heard that I did not
 21 follow verification of funds is all I kept hearing.

22 Q. Okay. Would the postdate

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Hue - Israel

1 report show whether or not there was any proper
 2 verification or validation of the check before it was
 3 deposited?

4 A. No.
 5 Q. What report, if any, would
 6 show that?

7 A. It was a report that you had
 8 out earlier that I just handed back. It was a funny
 9 looking one. It had -- that report, that one.

10 Q. Before we leave this, there
 11 was no system generated report that would show whether
 12 there was proper validation or not relating to any
 13 check, correct?

14 A. Not that I'm aware of in
 15 CRS.

16 Q. I don't have any more
 17 questions at this time.

18 MR. HOMER: Okay.
 19 MR. ISRAEL: I would keep
 20 the deposition open pending the
 21 production of documents relating to her
 22 business as well as any documents

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Hue - Israel

1 relating to medical records. Do you
 2 want me to just to send you a form that
 3 she can complete so that we can get the
 4 medical records directly from the
 5 provider?

6 MR. HOMER: If you want to
 7 do that, that's fine. I think probably
 8 all it would take is a phone call to get
 9 them.

10 MR. ISRAEL: Not now days.
 11 MR. HOMER: You are probably
 12 right with HIPPA.

13 MS. FITE: Instead of
 14 getting your signature and going that
 15 way, if you go visit them and get them
 16 and send them to us.

17 MR. HOMER: That's fine. We
 18 will get them to you some way, shape, or
 19 form. We are going to want to read.
 20 (Signature is not waived.)
 21
 22

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Hue - Israel
 CERTIFICATE OF NOTARY

1
 2
 3 I, Genevieve H. Ritter, a Notary Public, do
 4 hereby certify that the witness, Valerie Hue, was by
 5 me first duly sworn to testify the truth, the whole
 6 truth, and nothing but the truth; that the foregoing
 7 deposition was taken at the time and place stated
 8 herein; and that the said deposition was recorded
 9 stenographically by me and then reduced to typewriting
 10 under my direction, and constitutes a true record of
 11 the testimony given by said witnesses.

12
 13 I further certify that the inspection, reading,
 14 and signing of said deposition was not waived by
 15 counsel for the respective parties and by the witness.

16
 17 I further certify that I am not a relative,
 18 employee, or attorney of any of the parties, or a
 19 relative or employee or either counsel, and that I am
 20 in no way interested directly or indirectly in this
 21 action.

22
 23 IN WITNESS WHEREOF, I have hereunto set my hand
 24 and affixed my seal of office this _____ day of
 25 January, 2006.

 NOTARY PUBLIC

DE PS 130 gr

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B-305

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

VALERIE HUE,

Plaintiff,

v.

NCO FINANCIAL SYSTEMS, INC., a
Delaware corporation, trading as
NCO FINANCIAL COMMERCIAL SERVICES,

Defendants.

COPY
Civil Action
No. 05-225-KAJ

Deposition of MATTHEW HARRISON LANE,
taken pursuant to notice at the law offices of
Parkowski, Guerke & Swayze, 116 West Water Street,
Dover, Delaware, beginning at 12:04 p.m., on
Wednesday, January 4, 2006, before Dale C. Hawkins,
Registered Merit Reporter and Notary Public.

APPEARANCES:

JEREMY W. HOMER, ESQ.
PARKOWSKI, GUERKE & SWAYZE, P.A.
116 West Water Street
Dover, Delaware 19903
for the Plaintiff

DAVID ISRAEL, ESQ.
SESSIONS, FISHMAN & NATHAN, LLP
114 Northpark Boulevard, Suite 10
Covington, Louisiana 70433

-and-

ELIZABETH K. FITE, ESQ.
LAW OFFICES OF ELIZABETH K. FITE, P.A.
15316 North Florida Avenue, Suite 100
Tampa, Florida 33613
for the Defendant

Hawkins Reporting Service
715 North King Street - Wilmington, Delaware 19801
(302) 658-6697 FAX (302) 658-8418

B-306

1 Q. When an NSF check was so returned,
2 what was the procedure that you were instructed
3 to follow regarding the handling of that NSF
4 check?

5 A. First to try and contact the
6 debtor.

7 Q. And why would you contact the
8 debtor?

9 A. To understand why the check
10 bounced.

11 Q. And if you were successful in
12 contacting the debtor, what was your
13 responsibility?

14 A. To recollect the debt.

15 Q. By having the collector make the
16 check good?

17 A. Usually with certified funds.

18 Q. And were there ever times that you
19 would submit checks without reaching a debtor?

20 A. Yes.

21 Q. Tell me about that?

22 A. End of the month, trying to
23 achieve a number.

24 Q. Now, at the end of the month when

1 you were trying to achieve a number, do you mean
2 you were trying to get as much collections in as
3 possible?

4 A. Yes.

5 Q. Fair to say the more collections
6 in, the better you as a collector would be
7 judged?

8 A. If the check actually was made
9 good. If the check bounced again it didn't do
10 me any good.

11 Q. It would come off the next month?

12 A. Depending on how quickly it was
13 returned, yes.

14 Q. Would you receive any credit
15 before the NSF check that you resubmitted was
16 made good?

17 A. You don't receive any credit until
18 it's good. I mean, it's all paper until it
19 actually clears.

20 Q. Got you. So what would be the
21 advantage then of submitting an NSF check
22 without confirming that the check was good?

23 A. Hope, prayer, timing, maybe.

24 Q. Well, were you also rated as far

1 as your total number of collections submitted at
2 the end of the month?

3 A. I don't understand what you mean.

4 Q. Sure. Every month collectors had
5 numbers next to their name as to the amount of
6 collections; correct?

7 A. Uh-huh. Yes.

8 Q. At the end of the month, checks
9 would be submitted that at that time had not yet
10 been returned NSF; correct?

11 A. Yes.

12 Q. So until that check was returned
13 NSF, your number would be that much higher?

14 A. Yes.

15 Q. By way of example, if a \$1,000
16 check was submitted the end of January '06 --

17 A. Uh-huh.

18 Q. -- then until that check bounced,
19 that number would stay by your name?

20 A. Correct.

21 Q. Do you remember being compensated
22 on that number until that check bounced?

23 A. No.

24 Q. Now, do you remember that you were

1 separated from NCO?

2 A. Yes.

3 Q. Do you remember why you were

4 separated from NCO?

5 A. Not specifically.

6 Q. Okay.

7 A. I'm sure you could --

8 Q. I have a copy of the termination
9 notice that's dated January 2004. Let me
10 identify this as Lane Number 1. I'm going to
11 show it to the lawyer for Ms. Hue first. And
12 while he's looking at it, it says refused to
13 sign, but it's signed by Ms. Hue.

14 A. Okay.

15 Q. Do you remember receiving a
16 notice?

17 A. Yes.

18 Q. Do you remember reading it at the
19 time you saw it?

20 A. Yes.

21 Q. Again, you'll look at it in
22 detail, but do you remember the concept as to
23 why you were separated?

24 A. It had to do with paperwork that

1 wasn't filed.

2 Q. Okay. Do you remember issues
3 relating to how you created and/or submitted
4 checks improperly? And you can look at it. Do
5 you have it in front of you?

6 (Lane Deposition Exhibit No. 1 was
7 marked for identification.)

8 THE WITNESS: Okay. I'm done
9 reading it.

10 Q. Can I see it for a moment. Does
11 that refresh your recollection better as to what
12 you were accused of doing wrong?

13 A. Yes.

14 Q. And what do you remember that you
15 did wrong?

16 A. There was a form to fill out each
17 time a check was to be modified.

18 Q. Okay. And did you not follow
19 that form?

20 A. Correct.

21 Q. And did you not have permission
22 from the debtor to submit checks?

23 A. That's not correct.

24 Q. The debtor gave you permission?

1 A. Yes.

2 Q. But you didn't fill out the form
3 confirming the permission?

4 A. Correct.

5 Q. Now, it says on this form, on
6 January 20, 2000 --

7 MR. HOMER: Excuse me, I would
8 like to get a copy of the form.

9 MR. ISRAEL: You have it, it's
10 number --

11 MR. HOMER: I don't have it with
12 me. Let me make a copy. I'll be right back
13 with it.

14 (A brief recess was taken.)

15 BY MR. ISRAEL:

16 Q. It says on the form, "On January
17 20, 2004, you admitted to your manager, Valerie
18 Hue and Eric Shaw, that you did not have
19 authorization from the debtor to change the
20 amounts of the direct check number 18704 until
21 the December 31, 2004, for the amount of
22 \$5,000."

23 Did you make such an admission?

24 A. That is slanted.

1 Q. Explain it.

2 A. The relationship that I had with
3 the debtor was five months speaking on a weekly
4 basis. She owed my client over \$120,000. So to
5 say that I didn't have permission to change a
6 check from \$20,000 to \$5,000 was based on the
7 limitations that the system provided to me.

8 When we initially began our very
9 first conversation with the debtor, the
10 agreement was to pay \$5,000 a week. Due to her
11 lack of funds and the fact that she had bounced
12 a check previously, by the time I got to
13 December, the only way to hold on to the account
14 without it falling out and being stripped from
15 me was to make representation of the balance
16 being paid.

17 Q. Was that done with the permission
18 and instruction of Ms. Hue?

19 A. I didn't have to ask anybody's
20 permission other than the debtor's.

21 Q. Okay. Well, let me ask it
22 differently. You think your discharge by
23 Ms. Hue was incorrect?

24 A. Absolutely.

1 Q. Did Ms. Hue ever tell you to do
2 anything wrong at NCO by way of mishandling
3 checks?

4 A. We were instructed to put checks
5 through without speaking to debtors.

6 Q. And that was a violation of the
7 policy that you had been taught?

8 A. Yes.

9 Q. And did Ms. Hue instruct you to
10 put checks through without speaking to the
11 debtor?

12 A. All of the managers, in an effort
13 to achieve a department number.

14 Q. End of month number?

15 A. Right.

16 Q. And was that for as long as you
17 worked there?

18 A. No, not as long as I worked there.

19 Q. Well, if you can remember, you
20 were there a couple of years approximately?

21 A. Right.

22 Q. Was that the rule when you
23 started?

24 A. No.

1 A. I owned a rental property that I
2 received a citation for weeds being too high.

3 Q. Anything else?

4 A. University of Delaware I received
5 a public urination citation.]

6 Q. Anything else?

7 A. But beyond motor violations, no,
8 sir.

9 Q. Have you ever been charged with
10 anything that relates to your honesty?

11 A. No.

12 Q. Let's go back to December of
13 2003/January of 2004, that time period. Do you
14 recall whether during that time period you were
15 having any financial problems?

16 A. I don't understand.

17 Q. During that time period I just
18 mentioned, were you having personal financial
19 problems?

20 A. No.

21 Q. Do you recall your car being
22 repossessed at NCO's offices?

23 A. Yes.

24 Q. When was that?

1 A. December.

2 Q. Of 2003?

3 A. No, it wasn't during December. It
4 was during the beginning of November.

5 Q. Of 2003?

6 A. Yes.

7 Q. And were you delinquent on your
8 mortgage payments during that time period,
9 November/December/January of 2004?

10 A. I don't recall.

11 Q. Well, did you default on a
12 mortgage?

13 MR. ISRAEL: Objection.
14 Relevance.

15 Go ahead and answer.

16 A. No, I didn't default on a
17 mortgage.

18 Q. Okay.

19 A. We went through...

20 Q. Were you ever delinquent on your
21 mortgage payments that you recall?

22 A. Yes.

23 Q. When was that, and during what
24 time period?

1 Q. Do you know whether she was aware
2 of the practice?

3 A. I didn't have any direct
4 conversations with her about it.

5 Q. I understand that, but aside from
6 what your direct conversation with her might
7 have been, do you have any understanding about
8 whether she was aware that practice was a common
9 practice in her office?

10 A. Yes.

11 Q. She was aware of it?

12 A. Yes, she was.

13 Q. How do you know that?

14 A. Hearsay.

15 Q. Who told you that, if you
16 remember?

17 A. Other collectors in the office.

18 Q. Do you remember who they were?

19 A. No.

20 Q. Was there an open door policy with
21 Ms. Obenchain, that is did you feel you could go
22 to her at any time with any kind of a problem
23 that you might have had?

24 A. It was said that there was an open

1 end of the month to redeposit checks that had
2 been bounced and we didn't talk to the debtor,
3 we had to alter the check because we could no
4 longer use the date that we originally processed
5 the check on, we had to use a new date.

6 Q. Let me ask you this: What was the
7 process for determining whether or not you could
8 resubmit a check without debtor verification,
9 under what circumstances would that be done?

10 A. The end of the month, we were told
11 to -- we were told to hold them until the first
12 business day of the following month.

13 Q. So what you're saying is at the
14 end of the month, every NSF check would be
15 resubmitted?

16 A. At the end of December it was.

17 Q. Who told you to do that?

18 A. That conversation was with Eric
19 Shaw.

20 Q. Did Ms. Hue tell you to do that?
21 She wasn't even around then, was she?

22 A. What do you mean by that, not
23 around?

24 Q. The end of December she wasn't at

1 the office, was she?

2 A. I don't recall.

3 Q. Are you saying that same practice
4 applied to every month, at the end of the month
5 every NSF check would be resubmitted
6 automatically?

7 A. I don't recall.

8 Q. You don't recall when that was
9 done?

10 A. I recall November and December.

11 Q. Okay.

12 MR. ISRAEL: November and December
13 you submitted all the checks?

14 A. Right. Right.

15 Q. You say that there was a written
16 instruction from Ms. Hue. Are you sure of that?
17 I mean, we have asked for all the documents, we
18 haven't seen any written instructions from
19 Ms. Hue that related to this policy.

20 A. If the software package that we
21 had came on in August or July, someone got fired
22 because they ordered a copy of a check from a
23 client, we were collecting a bad check and this
24 collector without speaking to the debtor used

1 that check and created another check and that
2 individual was fired. Shortly after that,
3 that's when --

4 Q. I don't know if that's a response
5 to the question. Could you tell me again?

6 MR. ISRAEL: One second. Did you
7 finish?

8 THE WITNESS: I guess.

9 MR. HOMER: You did finish. Could
10 you explain?

11 MR. ISRAEL: One moment. I got
12 the idea that you were in mid sentence.

13 A. Well, that's when the policy came
14 out, after that individual was fired.

15 Q. What policy is that now you're
16 talking about?

17 A. That we -- I mean, it was
18 referenced in my termination that I signed --

19 Q. Are you sure that wasn't a policy
20 by Kathy Obenchain?

21 A. Absolutely.

22 Q. And this is a policy that Valerie
23 Hue wrote?

24 A. Uh-huh. Yes.